

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE
DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 657/Del/2023
Asstt. Year: 2019-20

Haryana Traders Private Limited 4035/36, Chawri Bazar, New Delhi – 110 006 PAN AAACH0168F (Appellant)	Vs.	ITO Ward 11(1), New Delhi. (Respondent)
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Assessee by:	None
Department by:	Shri Vivek Kumar Upadhyay, Sr. DR
Date of Hearing:	29.08.2023
Date of pronouncement:	27.10.2023

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the assessee is directed against the order dated 10.01.2023 of the Ld. Commissioner of Income Tax (Appeals) NFAC, Delhi ("**CIT(A)**") pertaining to Assessment year ("**AY**") 2019-20.

2. The assessee has taken the following solitary ground:-

"1. That Ld. CIT(A) without appreciating the correct facts of the case and determining the due date under the relevant Act and ignoring the various case law relied upon which was prevailing at the time of processing of return of income is not justified in law and facts and circumstances of the case in confirming the addition of Rs. 86232/- on account of deposit of employee contribution of ESI and provident fund beyond the alleged due date in the relevant Act made by Ld. DCIT (CPC)."

3. Briefly stated, the assessee e-filed its return for AY 2019-20 on 26.10.2019 declaring income of Rs. 37,36,810/-. The return was processed by Ld. DCIT (CPC) and intimation under section 143(1) of the Income Tax Act, 1961 (**the “Act”**) was issued on 18.04.2020 making adjustment of Rs. 86,232/- on account of late deposit of employees’ contribution of PF and ESI beyond the due date prescribed under the relevant Act.

4. On appeal filed by the assessee, the Ld. CIT(A) observed that the issue is squarely covered by the judgment of the Hon’ble Supreme Court in M/s. Checkmate Services Pvt. Ltd. vs. CIT dated 12.10.2022 in Civil Appeal No. 2833 of 2016 wherein it was held that due date for deductibility of employees’ contribution to PF, ESI funds etc. applies under section 36(1)(va) of the Act and section 43B of the Act does not cover employees’ contribution to PF, ESI, etc. deducted by the employer from salaries of employees for AY(s) prior to AY 2021-22. The Ld. CIT(A), therefore, confirmed the impugned disallowance against which the assessee is in appeal before the Tribunal and the ground taken by the assessee relates thereto.

5. When the case was called up for hearing none attended for the assessee, though the Ld. Sr. DR was present. So we proceeded to decide the appeal ex-parte after hearing the Ld. Sr. DR.

6. The Ld. Sr. DR submitted that the issue is covered by the decision of the Hon’ble Supreme Court in the case of M/s. Checkmate Services Pvt. Ltd. (supra) in favour of Revenue and against the assessee.

7. We have considered the submission of the Ld. Sr. DR and perused the records. It is revealed from the records that the assessee has not paid employees’ contribution to PF within the time prescribed under the PF Act. The case of the assessee is that the deduction should be allowed as the payment has been made before the due date of filing of return under section 139(1) of the Act. The claim of the assessee cannot be accepted as the issue now stands settled against the assessee by the judgment of the Hon’ble Supreme Court in M/s. Checkmate Services Pvt. Ltd. (supra) reported in

448 ITR 518 (SC). We, therefore find no merit in the ground raised by the assessee which we hereby reject.

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 27th October, 2023.

**sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

**sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER**

Dated: 27/10/2023
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Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	